

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

MDL NO. 2492

Master Docket No. 13-cv-09116

Judge John Z. Lee

Magistrate Judge Geraldine Soat
Brown

**SETTLEMENT CLASS COUNSEL'S SUPPLEMENTAL SUBMISSION IN SUPPORT
OF MOTION FOR FINAL APPROVAL OF SECOND AMENDED CLASS
SETTLEMENT**

Settlement Class Counsel submits this supplement pursuant to the Court's November 13, 2017 Order.

Pursuant to the docket entry dated August 1, 2017, the deadline for Settlement Class Members (except Settlement Class Members from Frostburg State University) to object or opt-out of the Settlement was September 15, 2017. Class Counsel responded to those objections on September 29, 2017.

Pursuant to the Case Management Order dated November 13, 2017, the deadline for Settlement Class Members from Frostburg State University was January 16, 2018. Just one comment was received from former NCAA student-athlete Geoff Sudath. *See* Ex. A.

Mr. Sudath was a football player at Frostburg State University in 2011. *Id.* Mr. Sudath was on the football field when his teammate Derek Sheely suffered a head injury, the result of which allegedly caused Mr. Sheely's death.¹ In his letter, Mr. Sudath explains that more could

¹ *See generally* "Death of Frostburg State player Derek Sheely due to 'egregious misconduct,' lawsuit says," The Washington Times (August 22, 2013), available at

have been done to prevent Mr. Sheely's injury and death, as well as to prevent other concussions and injuries from occurring. Ex. A.

While expressing his concern as to concussion management as it existed in 2011, Mr. Sudath does not comment on the terms of the Settlement nor the new concussion management and return to play protocols which the NCAA has agreed to implement. The new protocols to be implemented by the NCAA under the Settlement are designed to address both the prevention of concussions and the appropriate handling of concussions once they occur to prevent secondary injury or the exacerbation of symptoms. These protocols, which are designed to address exactly the types of concerns expressed by Mr. Sudath, include:

- **Baseline testing:** "Every student-athlete will undergo pre-season baseline testing, for each sport in which they participate, prior to participating in practice or competition."²
- **No same day return to play:** "Students with a diagnosed concussion will be prohibited from returning to play or participation in any practice or game on that same day and must be cleared by a physician before being permitted to return to play in practice or competition."³
- **Medical personnel for Contact Sports:** all schools will be required to have medical personnel with training in the diagnosis, treatment, and management of concussion present at games and available during practices.⁴
- **Concussion tracking:** the NCAA will put a reporting process in place for schools to report diagnosed concussions and their resolution, as well as a reporting mechanism from concerned persons to the NCAA.⁵

<https://www.washingtontimes.com/news/2013/aug/22/death-frostburg-state-player-derek-sheely-due-egre/> (last accessed January 28, 2018); "NCAA to pay \$1.2 million to settle lawsuit in death of Frostburg football player," The Baltimore Sun (August 8, 2016), available at <http://www.baltimoresun.com/news/maryland/bs-md-ncaa-settlement-20160808-story.html> (last accessed January 28, 2018).

² Am. SA, ¶ IX.A.1.

³ Am. SA, ¶ IX.A.2, 3.

⁴ Am. SA, ¶ IX.A.4, 5.

⁵ Am. SA, ¶ IX.E.

- **Concussion education:** the NCAA will require that its schools provide NCAA-approved concussion education and training to student-athletes, coaches and athletic trainers before each season.⁶
- **Academic accommodation:** the NCAA will provide member institutions with educational materials for faculty regarding academic accommodations for students with concussions.⁷

Accordingly, Mr. Sudath's comment is aligned with the objectives of the Settlement relief implementing the new concussion management and return to play protocols.

WHEREFORE, Settlement Class Counsel respectfully requests that the Court grant the Motion for Final Approval of the Second Amended Settlement.

Date: January 30, 2018.

Respectfully submitted,

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⁶ Am. SA, ¶ IX.G.

⁷ Am. SA, ¶ IX.G.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on January 30, 2018, a true and correct copy of the foregoing was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record.

By: /s/ Steve W. Berman
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